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10/773,532

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EXAMINER

BARQADLE, YASIN M

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/773,532	Applicant(s) KAZMI ET AL.	
	Examiner YASIN M. BARQADLE	Art Unit 2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The amendment filed on November 25, 2008 has been fully considered but are not persuasive in view of the new grounds of rejection.

- Claims 1-25 are presented for examination.
- Claims 26-42 have been withdrawn.

Response to Amendment

The Applicant argues, " Baumeister does not teach, suggest or disclose one or more first servers configured to receive digital content from a client, and an ingest server configured to ingest the digital content that is to be received by the first servers. Baumeister's stream servers are not configured to receive digital content from the client. The stream servers' ability to communicate with the client is entirely orchestrated by the Stream Server Portal." (page 10 second paragraph).

The Examiner disagrees. The Examiner notes that arguing against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner did

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not relay on Baumeister to teach receiving digital content from a client.

However, receiving a digital content from a client is a well known as described in the office action. Furthermore, the Examiner notes the claim requires "one or more first servers configured to receive digital content from a client". In this case "configured to" simply requires the servers to be structurally capable of receiving a digital content from a client. This issue has been raised before in page 2 of the office action dated 03/28/2008. The Applicant did not address the issue to indicate to the contrary. Nevertheless, the Examiner provided Sim's reference disclosing a content management server receiving digital content such as video files from a client. (see the office action page 3).

The Applicant also argues. "Baumeister's FTP server is also not configured to receive digital content in the manner recited in claim 1. The FTP server in Baumeister is implemented when the Stream Server Portal is unable to find the location of a media file, therefore, the FTP server contacts a database for file retrieval. Additionally, Baumeister does not teach, suggest or disclose a central site geographically remote from the remote sites, the central site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information. Applicant submits that the identified Stream Server Portal in Baumeister is in stark contrast to the recited claim elements describing the central site of claim 1. The Stream Server Portal selects stream

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servers based not on client identifying information, but on location information associated with the location of a media file.” (page 10 second paragraph).

The Applicant argues “The FTP server in Baumeister is implemented when the Stream Server Portal is unable to find the location of a media file, therefore, the FTP server contacts a database for file retrieval.” Page 10 second paragraph.

This argument is not persuasive. In Baumeister the FTP server (ingest server) is configured to transfer digital content (fig. 3 and ¶40 and 47).

The Applicant also argues “Baumeister does not teach, suggest or disclose a central site geographically remote from the remote sites, the central site comprising one or more ingest queue servers to direct transfer of digital content from the ingest server to one or more of the first servers based on client identifying information. Applicant submits that the identified Stream Server Portal in Baumeister is in stark contrast to the recited claim elements describing the central site of claim 1. The Stream Server Portal selects stream servers based not on client identifying information, but on location information associated with the location of a media file.” Page 10 second paragraph.

The Examiner notes that “a central site geographically remote from remote site” simply describes relative location of the sites. two web servers can be remote to each other by being in a different geographic location (city, state, country, continent or building). 0043] Baumeister teaches “For example, the address information may be a URL (Uniform Resource Locator) when the media data is

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stored on an Internet server. The URL is an Internet address which tells a browser where to find an Internet resource.” (§43). Baumeister shows Stream server site “remote” from, e.g., the stream server portal, making it a “central site.” The stream server portal selects stream servers based on among other things including “... the locality of the associated Stream Server to the client request, etc.” (§38). See also §45 “... the Media Player itself invokes the Stream Server Portal and passes at least the address information of the media data to the Stream Server Portal (20). Optionally, additional information such as the Media Player/Stream Server type, security information or client information may be passed to the Stream Server Portal.”

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6, 8, 11-14, 18, 20, 23 and 24 rejected under 35 U.S.C.

103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786) in view of Sim US. Patent No. (6970939).

As to claim 1, Baumeister teaches a system comprising:

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One or more first servers (stream server 1 and 2, fig. 3) configured to receive digital content (stream server 1 and 2 store digital content and thus are configured to receive digital content), and

an ingest server (FTP server) configured to ingest the digital content received that is to be received (see fig. 3),

the digital content to be available to users via the first server (§40 and 42-44 digital are stored for accessing browsers); and

a central site geographically remote from the first server (see stream server in fig. 3 different than stream) and the ingest server (FTP server), the central site comprising an ingest queue server (stream server portal) to direct transfer of digital content from the ingest server (FTP server) to the first server (stream server) based on client identifying information (see fig. 2, 3, §45, 46).

Baumeister teaches the invention as explained above including URL accessible data store in the stream serves. However, Baumeister does not expressly disclose that clients upload the digital content to the first server.

In an analogous art, Sim whose invention is about method for a large payload distribution in a network discloses “A content provider (client) uploads a large payload file to a single content management server using content publishing and management tools running on a content provider client system.” (Col. 14, lines 11-35).

Given the teaching of Sim one of ordinary skill in the art would readily appreciate that uploading content to remote server would have been a

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convenient means for providing the content to an FTP server. In this way uploaded contents could be distributed or made available to other devices on the Internet.

Baumeister discloses the stream server (i.e., the “first server”) and the FTP server (i.e., the “ingest server”) being in a “site.” (accessing these servers via URL implies being a web site ¶41-43).

The stream server (i.e., the “first server”) and the FTP server (i.e., the “ingest server”) shown by Baumeister in figures 2 and 3 clearly meet this interpretation. And, this site is clearly “remote” from, e.g., the stream server portal, making it a “remote site.”

As to claim 13, Baumeister teaches a method for facilitating access by users to digital content of one or more clients, each client having client identifying information, the method comprising:

receiving information about digital content at a central site (stream portal server (see fig. 2, 3) ;

analyzing the client identifying information (see ¶45-48);

directing, by an ingest queue server at the central location (stream server portal), transfer of digital content from an ingest server (FTP server) to another server (stream server) based on the client identifying information (see fig. 2, 3, ¶38 and ¶45-48).

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Baumeister teaches the invention as explained above including URL accessible data store in the stream serves. However, Baumeister does not expressly disclose that clients upload the digital content to the first server.

In an analogous art, Sim whose invention is about method for a large payload distribution in a network discloses "A content provider (client) uploads a large payload file to a single content management server using content publishing and management tools running on a content provider client system." (Col. 14, lines 11-35).

Given the teaching of Sim one of ordinary skill in the art would readily appreciate that uploading content to remote server would have been a convenient means for providing the content to an FTP server. In this way uploaded contents could be distributed or made available to other devices on the Internet.

Baumeister discloses the stream server (i.e., the "first server") and the FTP server (i.e., the "ingest server") being in a "site." (accessing these servers via URL implies being a web site ¶41-43).

The stream server (i.e., the "first server") and the FTP server (i.e., the "ingest server") shown by Baumeister in figures 2 and 3 clearly meet this interpretation. And, this site is clearly "remote" from, e.g., the stream server portal, making it a "remote site."

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As to claims 2 and 14, it would have been obvious to have clients upload the content to the FTP server, as detailed above. These clients are associated with the FTP servers' site because it stores their content.

As to claims 6 and 18, Baumeister discloses sites that are geographically distributed (see fig. 2, 3).

As to claims 8 and 20, Baumeister teaches a second server (stream server) for managing digital content at the remote site; a storage server (FTP server) configured to store digital content; wherein the second server (stream server) is coupled to the storage server (FTP server), the second server (stream server), configured to receive a request to access an item of digital content from a user and in response to the request, read the item of digital content stored on the storage server (FTP server) (see fig. 2, 3).

As to claims 11 and 23, Baumeister teaches that the central site includes one or more first servers configured to receive digital content and make digital content available to users (see fig. 2, 3).

As to claims 12 and 24, Baumeister teaches that the transfer of digital content is caused by a user's request to experience the content (see fig. 2).

3. Claims 3, 4, 7, 9, 15, 16, 19, 21, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786) and Sim in view of Colby (U.S. Pat. No. 6,006,264).

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As to claims 7 and 19, Baumeister and Sim disclose that the Stream Server Portal chooses “suitable” Stream Server, but is silent as to how. It follows that Baumeister does not disclose that the transfer of digital content is based on the relationship between two or more sites.

In a similar art, Colby teaches a method for forwarding a request to a best-fit server based on server proximity to a client (see, e.g., Colby at abstract). It would have been obvious to one of ordinary skill in the art to select a suitable Stream Server here based on client proximity to minimize network latency.

As to claims 3, 4, 9, 15, 16, and 21, it would have been obvious to combine Baumeister and Sim with Colby as described in regards to claims 7 and 19.

Baumeister does not disclose that the client identifying information (see ¶45, 46) is or includes a location of the client, but the Stream Server Portal would need such information in order to select a suitable Stream Server based on client proximity. As such, it would have been obvious to one of ordinary skill in the art to include such location information with the client information.

As to claim 25, it would have been obvious to combine Baumeister and Sim with Colby as described in regards to claims 7 and 19. Colby further teaches that the transfer is to a remote site located proximate to a user (see, e.g., Colby at abstract).

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4. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786) and Sim in view of Layeghi (U.S. Pub. No. 2002/0019823).

Baumeister and Sim do not expressly disclose using a character set in connection with the media content. However, it was well known in the art to embed text into a media file using an expected character set, as evidenced by Layeghi (see ¶25). It would have been obvious to one of ordinary skill in the art to do the same here to provide additional information about the media content.

5. Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumeister (U.S. Pub. No. 2001/0034786) and Sim in view of Hans (U.S. Pub. No. 2002/0120577).

Baumeister and Sim do not disclose that the client identifying information used to select the streaming server is an amount of digital content that the client has transferred.

In a similar art, Hans teaches using an amount of digital content (the number of times particular works are transferred) that a client has transferred to determine whether to provide content to the client (see ¶ 29).

It would have been obvious to use the amount of digital content transferred in the same manner here because doing so would prevent a single client from overburdening the system.

Conclusion

6. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-

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3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yasin M Barqadle/

Primary Examiner, Art Unit 2456